



PRIVACY, GOVERNMENTAL
LIAISON AND DISCLOSURE

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, DC 20224

May 15, 2013

Carlton Purvis
Muck Rock News
Dept. MR 2437
P.O. Box 55819
Boston, MA 02205-5819

Dear Mr. Purvis:

I am responding to your Freedom of Information Act (FOIA) request dated January 3, 2013 that we received on January 9, 2013.

You asked for all documents, arrest reports, indictments, warrants, copies of correspondence between IRS and ADP, incident reports or other reports related to the Advanced Data Processing, Inc. (ADP) data breach that occurred fall 2012. Your request states ADP indicated an employee illegally accessed the ambulance billing system and leaked individual account information to a theft ring suspected of filing fraudulent tax returns. According to an ADP spokesperson the breach was discovered by the IRS who alerted ADP.

As a threshold matter, please note that all indictments and warrants related to Advance Data Processing Inc. are a matter of public record and can be accessed electronically through PACER.gov (Public Access to Court Electronic Records).

I am enclosing two (2) pages that were located in response to your request.

I am withholding in full the remaining information identified in response to your request, consisting of approximately 40,000 pages, for the following reasons:

- The documents, which are investigatory in nature, are grand jury information that are being withheld pursuant to 5 USC §552 (b)(3), in conjunction with grand jury secrecy provisions of USC Fed. R. Crim. P. 6(e).
- FOIA exemption (b)(7)(A) exempts from disclosure records or information compiled for law enforcement purposes, but only to the extent that production of such records could interfere with enforcement proceedings.

- Disclosure of this information is also exempt under FOIA subsection (b)(3) supported by Internal Revenue Code section IRC Section 6103(e)(7), because release would impair federal tax administration.
- FOIA exemption (b)(7)(B) exempts from disclosure records or information compiled for law enforcement purposes that would deprive a person of a right to a fair trial or impartial adjudication.
- FOIA exemption (b)(7)(C) exempts from disclosure personal information in law enforcement records that if released, could reasonably be expected to constitute an unwarranted invasion of personal privacy.
- FOIA exemption (b)(7)(D) exempts the disclosure of records or information compiled for law enforcement purposes to the extent that their release could disclose the identity of a confidential source.
- FOIA exemption (b)(7)(E) exempts from disclosure records or information compiled for law enforcement purposes to the extent their production would reveal:
 - Techniques and procedures for law enforcement investigations or prosecutions
 - Guidelines for law enforcement investigations or prosecutions, the release of which could reasonably be expected to risk circumvention of the law

Your correspondence included a request for a fee waiver. Although your letter does not establish valid reasons and/or include evidence to support your request to waive or reduce fees, it was not necessary to consider the fee waiver request because there was no fee for processing your request

This constitutes a partial denial of your request. I have enclosed Notice 393 explaining your appeal rights.

If you have any questions please call Tax Law Specialist Kathy Brewer, ID #1000274244, at 410-962-9209 or write to: Internal Revenue Service, HQ Disclosure, 2980 Brandywine Road, Stop 211, Chamblee, GA 30341. Please refer to case number F13009-0037.

Sincerely,

A handwritten signature in cursive script that reads "Bertrand Tzeng". The signature is written in dark ink and is positioned above the printed name and title.

Bertrand Tzeng
Disclosure Manager
HQ Disclosure FOIA & Program Operations

Enclosures
2 pages
Notice 393

Information on an IRS Determination to Withhold Records Exempt From The Freedom of Information Act – 5 U.S.C. 552

Appeal Rights

You may file an appeal with the Internal Revenue Service (IRS) within 35 days after we (1) deny you access to a record in whole or in part; (2) have made an adverse determination as to your category as a requester; (3) deny your request for a fee waiver or reduction; or (4) have advised you that no records responsive to your request exist. You may file an appeal within 10 days when a request for expedited processing has been denied.

Your appeal **must** be in writing, must be signed by you, and must contain:

Your name and address,
Description of the requested records,
Date of the request (and a copy, if possible),
Identity of the office and contact on the response letter, and
Date of the letter denying the request (and a copy, if possible)

Mail your appeal to: **IRS Appeals**
Attention: FOIA Appeals
M/Stop 55202
5045 E. Butler Ave.
Fresno, California 93727-5136

Judicial Review

If we deny your appeal, or do not address an issue raised in your appeal within 20 days (excluding Saturdays, Sundays, or legal public holidays) after the date we receive your appeal, you may file a complaint in United States District Court in the district in which (1) you reside; (2) your principal place of business is located; (3) the records are located; or (4) the District of Columbia. A complaint may be filed within 10 days (excluding Saturdays, Sundays, or legal public holidays) after the date we receive your appeal if your appeal is from an adverse determination of a request for expedited processing. If you choose to file suit before receipt of a final determination by the Appeals office, the administrative appeals process may cease.

The rule for effecting service of judicial process upon the Internal Revenue Service is set forth in Federal Rule of Civil Procedure 4(i). In addition to service upon the United States, as set forth in Rule 4(i)(1), service must be made upon the Internal Revenue Service by registered or certified mail as set forth in Rule 4(i)(2)(A).

The address of the Internal Revenue Service is: Internal Revenue Service, Attention CC:PA, 1111 Constitution Avenue, N.W., Washington, D.C. 20224.

Exemptions

The Freedom of Information Act, 5 U.S.C. 552, does not apply to matters that are:

- (b)(1) • specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and are in fact properly classified under such executive order,
- (b)(2) • related solely to the internal personnel rules and practices of an agency,
- (b)(3) • specifically exempted from disclosure by statute (other than section 552b of this title), provided that the statute:
 - (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or
 - (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld.

Note: Internal Revenue Code sections 6103 and 6105 are statutes which qualify for exemption 3 treatment. Section 6103 protects the confidentiality of tax returns and information pertaining to a taxpayer collected by the IRS. Section 6105 protects information obtained from a foreign country under a tax treaty.